D.B. CIVIL SPECIAL APPEAL(W)NO.795/2007

Hanuman Sain
Vs.
State of Rajasthan and others

DATE OF ORDER :: 29-05-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri P.S. Sirohi, for the appellant.

The dispute in this appeal relates to transfer and posting.

Facts of the case are that on 18.4.2006 the appellant was posted at Bikaner on his own request. On 21.4.2006 fresh order was passed by which he was kept waiting for posting. He challenged the said order before the Rajasthan Civil Services Appellate Tribunal. The Tribunal initially passed an interim order but finally dismissed the appeal on 31.5.2006. A posting order was issued thereafter on 15.7.2006 in terms of which appellant was posted at Patwar Mandal, Delva within Dungergarh tehsil of Bikaner district.

Counsel tried to find fault with the order dated 21.4.2006. However, we are of the view that the order stands superseded by order dated 15.7.2006 and the challenge does not survive.

It is well settled that transfers and postings are incidents of service and unless there is violation of some statutory rule or the order is found to be grossly arbitrary or actuated by malafide, the Court would not

interfere. We find no error in the order of the Tribunal refusing to interfere in the matter.

Counsel submitted that if the challenge to the said order is not accepted, direction may be issued for acceptance of the appellant's joining at Delva (Dungargarh). It goes without saying that if no fresh order has been passed in the meantime, he will be permitted to join the place of posting i.e. Delva (Dungargarh). We direct accordingly.

The appeal is dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen